

# EXHIBIT 2

RICHARD LIVINGSTON

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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

- - -

KELLY A. GRADY,	:	CIVIL ACTION
	:	
Plaintiff,	:	NOVEMBER TERM, 2015
	:	
vs.	:	
	:	NO. 151103380
	:	
THE HERTZ CORPORATION; HERTZ	:	
RENT-A-CAR PHILADELPHIA INTL.	:	
AIRPORT; JOHN DOE(s),	:	
	:	
Defendant.	:	

- - -

Oral sworn testimony of RICHARD  
LIVINGSTON, held at ZANARAS REPORTING & VIDEO, 1845  
Walnut Street, Suite 938, Philadelphia, Pennsylvania,  
taken on Tuesday, October 4, 2016, commencing at 10:08  
a.m., before Lynda DiGrazio-Smith, a NJ Certified  
Court Reporter (Lic. #30XI002212), Certified Livenote  
Reporter, Licensed CaseViewNet Realtime Provider and  
Notary Public for the State of New Jersey.

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1 THE WITNESS: Yeah. I can't tell  
2 you. I just don't know.

3 BY MR. MALOFIY:

4 Q. So you recall you being the person  
5 required to go to court from May 2010, until a  
6 certain point. Then it was Mr. Graeber; right?

7 A. Yes. Right.

8 Q. And then it was a Mr. Lomis?

9 A. Yes.

10 Q. Or was there someone else?

11 A. No. Mr. Lomis.

12 Q. Okay. What's Mr. Lomis's title?

13 A. Assistant corporate security manager.

14 Q. How long has he been at Hertz?

15 A. Since February of 2016.

16 Q. Okay. Mr. Graeber is still with Hertz?

17 A. No.

18 Q. Or no?

19 A. He's not.

20 Q. When did he stop -- did he no longer --  
21 was he no longer employed at Hertz after  
22 February 2016?

23 A. No. He was not. He left somewhere in  
24 the summer. I am going to say July of 2015. Again,

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1       that's an approximate.

2               Q.    I understand.  Why did he leave?

3               A.    He got laid off.

4               Q.    Okay.  Do you understand the  
5       circumstances regarding his being laid off?

6               A.    My understanding was, it was just a  
7       corporate decision to lay off a large group of  
8       people at that time for cost savings.

9               Q.    Okay.  What was his role?

10              A.    Assistant corporate security manager.

11              Q.    So they laid him off and they hired on  
12       another corporate security manager roughly six  
13       months later?

14              A.    Yes.

15              Q.    What was the reason for that?

16              A.    They found out that they made a mistake  
17       in laying him off.

18              Q.    Did they ask for him to come back?

19              A.    They did.

20              Q.    And what was his response?

21              A.    He's already obtained other employment.

22              Q.    Do you know where he's now employed?

23              A.    With the federal government, but I don't  
24       know exactly what the job is.

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1 A. I'd be at the airport.

2 Q. So which police officers would you give  
3 it to?

4 A. Whoever arrived to take the report.

5 Q. How would they know to pick up a report?

6 A. I'd call them on the phone.

7 Q. So first, you would receive this theft  
8 package from Oklahoma City?

9 A. Right.

10 Q. You wouldn't review the theft package.  
11 Correct?

12 A. I'd look at it to make sure that  
13 everything is in order.

14 Q. What does that mean? All the pieces of  
15 the sandwich are there?

16 A. The dates are right and everything  
17 was -- there's numerous copies of the same  
18 information. Make sure everything is correct on it.

19 Q. How would you determine if it's correct,  
20 if you didn't have the factual knowledge relating to  
21 it?

22 A. Well, I can look at all the pages on  
23 that and make sure that they have it throughout the  
24 report is the same.

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1 Q. You would look through the report for  
2 basic typos. Is that right?

3 A. In most cases, yes.

4 Q. Would you do any other determination,  
5 other than looking for typos within the theft  
6 package itself?

7 A. No.

8 Q. Would you check any Hertz systems?

9 A. No.

10 Q. Okay. So your investigation or your  
11 review of the theft package was solely strictly the  
12 pages contained within the theft package itself?

13 A. That's correct.

14 Q. So then once you received it, how would  
15 you receive it? E-mail? Fax?

16 A. At one time it was faxed, now it's  
17 e-mailed.

18 Q. Okay. How many of these things do you  
19 receive a day?

20 MR. WOLF: At what point?

21 BY MR. MALOFIY:

22 Q. At any point. Does it change?

23 A. I don't receive any anymore.

24 Q. Why not?

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1 was the car stolen, yes.

2 Q. Okay. Would they ask you questions or  
3 do the interview at that point?

4 A. No. They would not interview me.

5 Q. What's the form? 7548?

6 A. I'm sorry?

7 Q. Are you familiar with the 75 --

8 A. I'm not -- yeah, the 48 is what  
9 Philadelphia uses.

10 Q. Yes.

11 A. Yes.

12 Q. You're familiar with that form?

13 A. Yes.

14 Q. Do you recall being interviewed by the  
15 police, when you turned in the theft package?

16 A. No.

17 Q. No. When you put in the theft package,  
18 what were the checks done to confirm the information  
19 was correct? When I say, What were the checks done,  
20 I mean what, as the corporate security manager, did  
21 you do to confirm that the information was true,  
22 accurate and correct, if anything?

23 A. I went through the form to make sure  
24 that everything was in order.

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1 Q. When you say, Everything was --

2 A. Well, for example, for the State, you  
3 need like a certified mailing, make sure that the  
4 mailing was included in the theft report.

5 Q. Besides, I mean, from my testimony, it  
6 sounds like you didn't do anything as far as checks  
7 and balances, to confirm the information was  
8 correct, other than making sure the pieces in the  
9 theft package were there?

10 A. Right.

11 Q. And then, also, checking for typos. Is  
12 that accurate?

13 MR. WOLF: Well, I'll just object to  
14 his testimony speaks for itself. And it's not  
15 counsel's characterization of the testimony.

16 MR. MALOFIY: Well, there's no  
17 characterization there. It was crystal clear.

18 MR. WOLF: The record will speak for  
19 itself.

20 MR. MALOFIY: Right. And I can ask a  
21 question and build it with foundation with prior  
22 facts for prior things he's testified to.

23 BY MR. MALOFIY:

24 Q. Now, my understanding, sir, is that when



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1     you received this theft package, your testimony is  
2     that you didn't do any independent investigation,  
3     other than looking at the package itself and then  
4     you would check to see if there were typos --

5             A.     Right.   My company would --

6             Q.     -- and make sure -- hold on a second.

7             A.     I'm sorry.

8             Q.     And make sure that the different parts  
9     that were supposed to comprise the theft package  
10    were there.   Correct?

11            A.     Yes.

12            Q.     Okay.   What parts are supposed to  
13    comprise the theft package?

14            A.     Well, what the police actually require,  
15    which is a certified mailing.

16            Q.     Okay.   What else?

17            A.     Car information.

18            Q.     What else?

19            A.     That's probably just about it.

20            Q.     Okay.

21            A.     They might require more in court, but...

22            Q.     Now, it says here, Submitted DNR 14 A,  
23    do you know what that means, on this Exhibit 32,  
24    page 3?

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1 Q. You'd agree with me that -- oh, you  
2 don't even know if 1805 was charged on Ms. Grady's  
3 card. Correct?

4 A. I'm sorry?

5 Q. I am going back to page 4 of 16 of  
6 Exhibit 32. You don't even know if 1805 was charged  
7 on the card, correct, on Ms. Grady's card?

8 A. No. I do not.

9 Q. But it says it here. Correct?

10 A. Okay.

11 Q. I'm reading that correctly; right?  
12 Credit card authorization would be 1805?

13 A. That's the estimated charge, yes.

14 Q. Okay.

15 A. I don't know if that was charged to the  
16 card or not.

17 Q. Now, you did no investigation to  
18 determine whether or not it was charged to the card?

19 A. Absolutely not.

20 Q. Okay. Let's go to page 7 of 16.

21 Before I do that -- strike that.

22 Am I correct that page 4, 5 and 6 are  
23 part of the Hertz contract?

24 A. Yes.

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1           A.   No.  No.  You have mechanics.  You have  
2   mechanic bays.  You have probably ten mechanic bays  
3   in the back of the building.  Maintenance, but I  
4   don't deal with them.  Most of the people there are  
5   on a regional basis.

6           Q.   Okay.  Besides you in, you know,  
7   corporate security and besides Mr. Lomis,  
8   Mr. Graeber, Mr. -- who you already identified  
9   yourself, is there anyone else that's involved in  
10  corporate security or vehicle location tracking?

11          A.   For the Philadelphia area?

12          Q.   Yeah.

13          A.   No.

14          Q.   And that would be at all relevant times  
15  that we're talking about.  Correct?

16          A.   Yes.

17          Q.   Is it your testimony that you don't go  
18  to the location and question any of the Hertz  
19  employees when you receive a theft package?

20          A.   That's my testimony, yes.

21          Q.   Why?

22          A.   Because I mean the package has been  
23  completed, all the reports have been reviewed, I  
24  guess, by OKC.  And my marching orders are to report

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1 the car stolen when I get the -- again, I do look at  
2 it for everything being accurate, as far as I can  
3 tell, within the report itself.

4 Q. Yeah. But you don't do any independent  
5 investigation?

6 A. I do not.

7 Q. You don't do any check?

8 A. I do not.

9 Q. How far away is your office from the  
10 Philadelphia Hertz office?

11 A. From the airport?

12 Q. Yeah. Philadelphia Airport Hertz  
13 office?

14 A. Half a mile, three-quarters of a mile.

15 Q. So how long would it take you to get  
16 there by car?

17 A. Five minutes.

18 Q. Okay. Is it your testimony that when  
19 you receive a theft package that deals with the  
20 Philadelphia Hertz Airport location, you wouldn't go  
21 and speak to individuals there regarding the theft  
22 package?

23 MR. WOLF: Asked and answered, but  
24 you can answer.

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1 THE WITNESS: In reference to?

2 BY MR. MALOFIY:

3 Q. Receiving a theft package and doing any  
4 kind of inquiry, you wouldn't do that normally?

5 MR. WOLF: Asked and answered, but  
6 you can answer.

7 THE WITNESS: A conversion has  
8 nothing to do with the people that wrote the  
9 contract or anything like that. No, I would not.

10 BY MR. MALOFIY:

11 Q. Would you have to speak to the rental  
12 representative who was?

13 A. I don't know who -- what are you talking  
14 about as far as a rental representative.

15 Q. The person who rented the car to the  
16 renter.

17 A. All right.

18 Q. Did you ever speak to them in regards to  
19 a theft or a conversion or a stolen vehicle?

20 A. Possibly if there was fraudulent  
21 paperwork submitted to them, I might.

22 Q. But it wouldn't be your practice to do  
23 that. Correct? To enter --

24 A. Not in the normal course of business

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1 A. I have never been deposed for Hertz.

2 Q. Okay. Are you aware of any lawsuits  
3 against Hertz for improperly reporting a car stolen  
4 when it was not?

5 A. I am not.

6 Q. Okay. Have you ever complained that the  
7 Hertz computer systems are not -- strike that.

8 Do you have access to phone logs to  
9 determine when a renter called in?

10 A. I do not.

11 Q. Do you have access to any kind of logs  
12 that determine the contacts the renter had with  
13 Hertz?

14 A. Do not.

15 MR. MALOFIY: I want to take a half  
16 hour break for lunch and finish up?

17 MR. WOLF: Do you need a break?

18 THE WITNESS: I need to go.

19 MR. WOLF: Let's finish.

20 MR. MALOFIY: We're going to be a few  
21 hours.

22 MR. WOLF: A few more hours?

23 MR. MALOFIY: Absolutely. Yeah. I  
24 got a lot of documents to go through. If you want a

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1 changes between the contract and that sheet. What  
2 exactly transpired to make that happen, I don't  
3 know.

4 Q. Okay. At any point would -- as a  
5 corporate security manager or anyone in your  
6 division of one other person, I mean -- I don't mean  
7 to make that --

8 A. It is all right.

9 Q. -- let me strike that.

10 As a corporate security manager for  
11 Hertz for this area or anyone working with you or  
12 for you, would they have done any independent  
13 investigation in to what payments are made with the  
14 car before filing a police report?

15 A. Not on my side of the fence. On OKC's  
16 side possibly.

17 Q. Okay.

18 A. We're still the same company. I just  
19 don't know what they do, possibly do to investigate  
20 that further.

21 Q. That's one of the questions I had. Who  
22 does this investigation if you don't, the corporate  
23 security manager?

24 A. As far as I know, vehicle control does

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1 all that paperwork.

2 Q. Well, you said paperwork --

3 A. Well --

4 Q. -- what do you mean by that?

5 A. Whatever they do to glean the  
6 information that they put down in the theft package.

7 Q. Do you know how that process is done?

8 A. I do not.

9 Q. If you don't know, who would know?

10 A. Vehicle control would know.

11 Q. Do you know if someone is testifying  
12 from vehicle control?

13 A. I do not know.

14 Q. Did anyone from vehicle control talk to  
15 you in regards to this case?

16 A. No.

17 Q. Did anyone from Hertz internally talk to  
18 you in regards to this case?

19 A. No.

20 Q. Do you know anyone in vehicle control or  
21 investigation that does the investigations for  
22 vehicle control?

23 A. All vehicle control does different tasks  
24 within it but I don't know who does what.



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1 recovered the vehicle?

2 A. They know it. They had to take it out  
3 of the system.

4 Q. Did you ever tell police that Ms. Grady  
5 was -- were you aware that Ms. Grady was released?

6 A. I didn't even know she was arrested.

7 Q. So you didn't know she was detained?

8 A. Correct.

9 Q. What procedure was in place to notify  
10 the police that Ms. Grady had made a payment of  
11 \$2,000?

12 A. It has no bearing on the case  
13 whatsoever.

14 Q. I didn't ask --

15 A. There's no procedure.

16 Q. I didn't ask you --

17 A. There's no procedure --

18 Q. -- whether or not it's your judgment --

19 MR. WOLF: He's answering the  
20 question.

21 THE WITNESS: -- in place.

22 BY MR. MALOFIY:

23 Q. Let me ask it again so we have a clean  
24 answer. What procedure was in place at Hertz to

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1 inform the police that Hertz had made a charge that  
2 went through on her bank for \$2,500 days before the  
3 report of the car stolen, which was not included in  
4 the theft package or any information previously  
5 provide to the police?

6 A. There is no procedure in place because  
7 it's not relevant.

8 Q. So it's Hertz's position that payment  
9 for a vehicle, pursuant to an agreement with Hertz,  
10 is not relevant to prosecuting a young lady for a  
11 theft of a vehicle?

12 A. Hertz is only trying to recover even a  
13 fraction of their loss from them not having the car  
14 back when it was contracted to be back.

15 Q. Isn't it true that she had an agreement  
16 to the end of July and she paid the \$2,500 pursuant  
17 to that agreement?

18 A. As far as the paperwork I see, no.

19 Q. Why was the \$2,500 paid to Hertz by Ms.  
20 Grady on the same credit card and on the same rental  
21 contract?

22 MR. WOLF: Same objection. That's  
23 been noted throughout the course of today. He's  
24 already testified he has nothing to do with billing.

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1 He doesn't know it. Joe Jaussi is the proper  
2 individual to be answering that question.

3 It's outside this witness' area of  
4 expertise.

5 BY MR. MALOFIY:

6 Q. I'm asking the context of corporate  
7 security and also notifying the correct law  
8 enforcement of changes to the facts and the scenario  
9 relating to a criminal complaint filed on behalf of  
10 Hertz against a renter. That's the context the  
11 question is being asked.

12 A. Money paid prior to the car being stolen  
13 is strictly a contractual thing prior to. After  
14 it's reported stolen, it becomes restitution.

15 Q. Where in any of the documents do you see  
16 the updated information that Hertz had received a  
17 payment of \$2,500?

18 A. I haven't seen it in any of the  
19 documents there. That's because it is not relevant.

20 MR. WOLF: Relevant.

21 MR. MALOFIY: I understand.

22 THE WITNESS: Thank you.

23 BY MR. MALOFIY:

24 Q. Where in the documentation do you see

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1 anywhere where Ms. Grady kept in constant contact  
2 with Hertz?

3 A. I don't.

4 Q. Okay. And what investigation did you  
5 do, if any, to determine whether or not she was in  
6 constant contact with Hertz during the course of the  
7 rental?

8 A. I personally didn't. I imagine the OKC  
9 did, but I can't...

10 Q. You don't know that information.  
11 Correct, sir?

12 A. That's correct.

13 Q. All right. And you don't know what OKC  
14 did; right?

15 A. I don't know what exact steps they took,  
16 no.

17 Q. Right. And as you came here today and  
18 also the discovery you produced, you didn't produce  
19 the actual procedure to follow in regards to the  
20 theft. Correct?

21 A. That was my mistake, I apologize.

22 MR. WOLF: We have already been over  
23 this.

24 MR. MALOFIY: And you will supplement